

REMARKS

Claims 1-7, 9-14, 16-35, and 37-54 are presented for further examination. Claims 1, 2, 9, 12, 13, 26, 27, 28, 34, 47 and 54 have been amended. Claim 8 has been canceled.

In the Office Action mailed July 16, 2007, the Examiner objected to the drawings and to claims 4, 16, 30, 37, and 49 because the feature of “at least two nozzles” was not shown. Claims 1-2, 4-13, 16-19, 22, 25-28, 30-35, 37-40, 43, 46-50, and 53-54 were rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 5,624,393 (“Diamond”). Claims 20-21, 23-24, 41-42, 44-45, and 51-52 were rejected under 35 U.S.C. § 103(a) as obvious over Diamond in view of U.S. Patent No. 5,429,607 (“McPhee”). Claims 3, 14, and 29 were rejected as obvious over Dianomnd in view of U.S. Patent No. 6,090,356 (“Carlson et al.”)

Applicant respectfully disagrees with the bases for the rejections and requests reconsideration and further examination of the claims.

Drawing Objections

Figure 3, as amended in the previous communication with the Examiner, includes two nozzles, 68 and 69. The applicant disagrees with the Examiner’s assertion that the nozzle portion comprising at least two nozzles is not supported in the specification as filed. **Applicant respectfully directs the Examiner’s attention to page 4 lines 1-3 and page 8 lines 1-4 of the specification wherein a “split nozzle” is described.** More particularly, at page 4, lines 1-3, it states: “In accordance with a further aspect of the foregoing embodiment, the nozzle portion is formed of two or more nozzles, each nozzle individually adjustable to a desired position.” And at page 8, lines 1-4, the specification states: “The nozzle portion 64 may also be dividable, such as having two conduits removably attached together to enable separation and individual positioning as desired” Moreover, in the original application as filed, claims 37 and 49 recited the dispensing tip as comprising “two nozzles that can be individually positioned at a desired location,” which language mirrors the specification quoted above. Clearly the claims are supported by the specification. And clearly there is support in the original application for a drawing that shows two nozzles at the dispensing tip.

Moreover, the substitute drawing previously submitted is a line drawing without shading or other features that merely shows a second nozzle depending from the first nozzle in a “Y” configuration. Nothing beyond what is in the description is included in the substitute formal drawing of Figure 3.

In a telephone conference with the Examiner on January 16, 2008, the Examiner indicated to applicant’s undersigned representative that the drawing needed to be supported in the specification and “enabled” by the specification. The specification as quoted above does enable the twin-nozzle depicted in Figure 3.

In view of the foregoing, approval and entry of the substitute Figure 3 is respectfully requested.

Claim Objections

The Examiner objected to claims 4, 16, 30, 37, and 49 asserting the claimed subject matter was not shown in the drawings. Each of the listed claims refers to a nozzle portion comprising at least two nozzles. Amended Figure 3 shows two nozzles, 68 and 69.

Applicant respectfully requests withdrawal of the objection.

Claim Rejections

Diamond describes an irrigation system for surgical instruments that utilizes a passive fluid source to gravity-feed fluid into a tube. The passive fluid source attaches to a rigid tube portion with a length of flexible I.V. tubing (Diamond column 2 lines 54-55). The rigid tube, attached to a surgical tool, terminates in a jet nozzle that is angled downward (Diamond column 2 lines 39 – 42). In particular the tube is clipped to Diamond’s tool by a rigid, narrow c-shaped clip that is not stretchable, expandable, and contractable. While this clip may be bent open to slip over the tool, it does not and cannot stretch as does the claimed sleeve.

Turning to the claims, claim 1 is directed to a surgical irrigation device for use with a surgical tool that includes a stretchable sleeve configured for attachment to the tool, the stretchable sleeve formed of compliant, expandable, textured non-slip material and adapted to stretch over the tool and contract on to the tool, a conduit having a distal tip that is adapted for

repeated bending to retain an angle of orientation without kinking or breaking and a proximal end, the conduit mounted on the sleeve, and a flow control mounted on the sleeve and associated with the conduit for controlling fluid flow through the conduit. Support for the amendment to claim 1 is found in the specification at page 7 lines 21-22.

Support for the amendment to claim 1 can be found in the specification at page 3, lines 22-23 (sleeve is compliant and expandable), page 6, lines 24-26 (sleeve contracts and stretches over the tool), and page 7, line 1, (sleeve formed of textured non-slip material).

Nowhere does Diamond teach or suggest these features as recited in claim 1. Applicant respectfully submits that claim 1 is clearly not anticipated by Diamond.

Claims 2-7, which all depend ultimately from claim 1, are allowable for the features recited therein as well as for the reasons why claim 1 is allowable.

For example, claim 2 recites the tube to have a portion integrally formed with the sleeve (see specification at page 7, lines 3-4). Nowhere does Diamond teach or suggest this feature. Rather, in Diamond the clip is a separate and distinct part, which allows the tube to potentially slip relative to the clip.

In view of the foregoing, applicant respectfully submits that claim 1 and dependent claims 2-7 are clearly allowable over Diamond.

Claims 9, 13, 27, 34, and 47 all recite the sleeve formed of stretchable compliant, expandable, textured non-slip material and adapted to stretch over the tool and contract on to the tool. Applicant respectfully submits that these independent claims and all claims depending therefrom are allowable for the reasons discussed above with respect to claims 1 and 2, respectively.

In view of the foregoing, applicant submits all of the claims in this application are now in condition for allowance. In the event the Examiner finds minor informalities that can be resolved by telephone conference, the Examiner is urged to contact applicant's undersigned representative by telephone at (206) 622-4900 in order to expeditiously resolve prosecution of this application. Consequently, early and favorable action allowing these claims and passing this case to issuance is respectfully solicited.

Application No. 10/691,901
Reply to Office Action dated July 16, 2007

The Director is authorized to charge any additional fees due by way of this Amendment, or credit any overpayment, to our Deposit Account No. 19-1090.

All of the claims remaining in the application are now clearly allowable.
Favorable consideration and a Notice of Allowance are earnestly solicited.

Respectfully submitted,
SEED Intellectual Property Law Group PLLC

/E. Russell Tarleton/
E. Russell Tarleton
Registration No. 31,800

ERT:HS/jk

701 Fifth Avenue, Suite 5400
Seattle, Washington 98104
Phone: (206) 622-4900
Fax: (206) 682-6031

1094654_1.DOC